

GENERAL ACCOUNT AND CLOSED SESSION MINUTES
Monday, December 17, 2001

Present were Chairman W. Steve Ikerd, Vice Chair Marie H. Huffman, and Commissioners Katherine W. Barnes, Barbara G. Beatty, and Dan A. Hunsucker.

Also present were County Manager/Deputy Clerk J. Thomas Lundy, Deputy County Manager Steven D. Wyatt, Assistant County Manager Mick W. Berry, County Attorney Robert O. Eades, Staff Attorney Debra Bechtel, and County Clerk Thelda B. Rhoney.

At its meeting on Monday, December 17, 2001, at 7:55 p.m., upon a motion by Commissioner Barnes, and unanimously carried, the Board recessed into Closed Session, in accordance with NCGS 143-318.11 (a) (3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body to discuss pending litigation in the Charles S. Wilfong and Jack C. Wilfong case, 2000 CvS 3270; and Robert, Sarah, and Charlotte Mauser cases, 2000 CvS 3391 and 2000 CvS 3392.

Charles S. Wilfong and Jack C. Wilfong case, 2000 CvS 3270

The Board discussed a Consent Judgment for the purchase of 110 acres from the Wilfongs at a cost of \$10,000 per acre.

The value of the Wilfong house is approximately \$60,000 and the historic barn is valued at approximately \$100,000 to \$150,000. The barn will be relocated to Murray's Mill.

The Board authorized County Attorney Eades to sign a Consent Judgment to take action on the Wilfong property.

Mr. Eades reviewed the proposed consent judgment with the Board and it is attached. He reviewed court proceedings to date and the alternatives available to the County, and recommended approval of the consent judgment. He said the parties have further agreed:

1. Defendants will be permitted to remove from the yard immediately surrounding their house any ornamental trees or shrubbery not needed for use by Plaintiff. This right of removal shall expire on 31 December 2006.
2. Defendants will be permitted to mow grass for hay on the grass field located on the West side of Wilfong Road and on the grass field located on the North side of Rocky Ford Road so long as such fields are not needed by Plaintiff or such use does not impede operation or expansion of the Catawba County Blackburn Landfill, as either is determined in the sole discretion of Plaintiff. Upon making such determination, Plaintiff will provide not less than four weeks written notice to Defendants that such use must cease upon the date specified in the notice. Upon the date so specified, Defendants shall cease such use.
3. Defendants will be permitted to harvest timber from the condemned land so long as such use does not impede operation or expansion of the Catawba County Blackburn Landfill, as either is determined in the sole discretion of Plaintiff. Upon making such determination, Plaintiff will provide not less than four weeks written notice to Defendants that such use must cease upon the date specified in the notice. Upon the date so specified, Defendants shall cease such use.
4. Defendants will be permitted to reside in the house they now occupy and located upon the condemned land until 31 December 2006. Occupancy after this time may continue but at the sole discretion of Plaintiff. Plaintiff will use its best efforts to give Defendants six months written notice to vacate the premises, but failure to do so will not create any cause of action or claim of any type against Plaintiff or extend the time in which Defendants may reside on or use the land. The Parties shall enter into a written Lease specifying with more particularity the terms upon which Defendants will be permitted to continue occupancy of said house, but no term of such lease will in any way contradict the terms of this Consent Judgment. In part, such lease will provide that Plaintiff will insure the structures located on the property against loss resulting from fire or other property damage, that Defendants will maintain adequate public liability insurance against bodily injury or death, will insure all personal property located on the property which is owned by Defendants, or, in the alternative, will execute an indemnification and hold harmless agreement in favor of Catawba County relating to any such claims or losses.
5. Defendants will be permitted to salvage or remove buildings, building materials and items of personal property now located on the condemned land. This right shall expire on 31 December 2006. This right does not apply to the large barn located behind the Wilfong residence on the condemned land.

Mr. Eades said Alex and Bobby Mullinax, the Defendants lawyers, have reviewed the Consent Judgment and they are both in agreement.

Robert, Sarah, and Charlotte Mauser cases, 2000 CvS 3391 and 2000 CvS 3392.

Mr. Eades said there are two tracts: One tract contains 84 acres and one tract contains 50 acres.

Mr. Lundy said the County will need another landfill cell by 2005 or 2006 and then will need an additional cell by 2011. He said it takes approximately five years after land is purchased to build a landfill cell and this timetable is driven by the state.

There is a General Statute that requires boards to hold a public hearing to consider alternative sites and demographic and socioeconomic data for the location of landfills.

The County would need to hire an independent firm to assess alternative property countywide to see if there are other locations suitable for a landfill as this is a requirement pursuant to NCGS 153A-136.

Staff would need to contact NC Department of Environment and Natural Resources (DENR) to obtain a list of firms other counties in North Carolina have used.

The Board authorized County Attorney Eades to withdraw on the Mauser property and prepare a Voluntary Dismissal. Mr. Eades said the plaintiff has the right to withdraw without prejudice. The County will have to pay Mauser's court fees and take a voluntary dismissal.

Mr. Eades said the County can go on the Mauser property to test and assess the property pursuant to the statutes in contemplation of condemnation.

At 8:37 p.m. the Board returned to regular session.

W. Steve Ikerd, Chairman

Thelda B. Rhoney, County Clerk